

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)	
)	
v.)	Criminal Action No. 1:18-cr-00123-02 (RDA)
)	
ELMER ZELAYA MARTINEZ,)	
)	
Defendant.)	

ORDER

This matter comes before the Court on the Motion for Attorney Bachrach to Participate Remotely and for Attorneys Jenkins and/or Morrison to Bring Cellular Telephones into the Courthouse (“Motion”). Dkt. 827. Mr. Michael Bachrach, counsel for Defendant Elmer Zelaya Martinez, brings the Motion to participate from a remote location in the oral argument on pending motions in this case scheduled to be heard tomorrow, March 10, 2021. Dkt. 827. The Motion also requests that co-counsel be permitted to bring telephones so that they may confer with Mr. Bachrach during the hearing. *Id.* Mr. Bachrach filed his motion this morning after learning of personal circumstances that impede his attendance.

Oral argument on certain pending motions in this case was scheduled to take place on January 13, 2021, per the Court’s Order of November 30, 2020. Dkt. 747. Then, on January 5, 2021, counsel for Defendant moved to hold oral argument remotely, or in the alternative, grant Mr. Bachrach permission to participate remotely either by video or telephone. Dkt. 771. On January 8, 2021, the Court granted Defendant’s Motion. Dkt. 778. The next day, January 9, 2021, Defendant moved to continue the oral argument scheduled for January 13, 2021, citing “the apparent misunderstanding between the parties[.]” Dkt. 779, 2. The government opposed Defendant’s motion, Dkt. 780, but the Court ultimately granted Defendant’s motion to continue oral argument on the pending motions. Dkt. 781. The Court’s Order noted that “[t]here


continue[d] to be disagreement and uncertainty as to how the parties will appear and when the hearing should be appropriately held[.]" *id.* at 3, and accordingly reset the hearing for March 2021. *Id.*

The Court further notes that Defendant is represented by four counsel, at least two of whom plan to attend tomorrow's argument. *See* Dkt. 827 (noting that co-counsel Mr. Jenkins and Mr. Morrison will attend the hearing). Though Mr. Bachrach states that he had planned to present oral argument "on many of the motions" and that his participation "remains necessary to the effective representation of Mr. Zelaya Martinez," Dkt. 827-1, he does not assert that Defendant will be prejudiced if other members of the defense team conduct oral argument in his absence. *See id.*; *see also* Dkt. 827. Although the Court is sympathetic to unforeseen circumstances that preclude Mr. Bachrach's participation at oral argument, such eleventh-hour requests to accommodate a single attorney are impracticable.

For the foregoing reasons, the motion is hereby DENIED.

It is SO ORDERED.

Alexandria, Virginia
March 9, 2021



/s/ Rossie D. Alston, Jr.
United States District Judge